

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

David M. Draheim,)
Plaintiff,) Civil Action No. 8:12-cv-03354-JMC
v.)
Michael J. Astrue, Commissioner of)
Social Security Administration,)
Defendant.)

)

ORDER

This matter is before the court upon Plaintiff's motion, through her attorney, Beatrice E. Whitten, for an award of attorney's fees under 42 U.S.C. § 406(b)(1). (ECF Nos. 34, 34-1.) Plaintiff's motion, filed on August 27, 2015, specifically seeks reimbursement for his counsel's representation in the captioned matter in the amount of 25% of his past due benefits in the amount of \$11,394.98, as calculated by the Social Security Administration. *Id.* Defendant's response to Plaintiff's motion (ECF No. 37) demonstrates that she does not oppose Plaintiff's request for fees in the amount stated herein.

The court has reviewed Plaintiff's counsel's fee petition and finds counsel's request for fees reasonable. *See Gisbrecht v. Barnhart*, 535 U.S. 789, 790 (2002) (holding that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within such statutory ceiling and instructing the court to review for reasonableness fees yielded by such agreements). Therefore, Plaintiff is entitled to an award of attorney's fees in the amount of \$11,394.98. The court further instructs Plaintiff's attorney to refund those EAJA fees granted by this Court in the amount of \$3,935.39 under the

Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. *See Gisbrecht*, 535 U.S. at 796 (holding that if the claimant has been awarded attorney fees under EAJA, the claimant's attorney must refund the lesser of the two fees to the claimant).

Plaintiff's Motion for Attorney's Fees (ECF Nos. 34, 34-1) therefore is **GRANTED**.

IT IS SO ORDERED.



United States District Judge

October 20, 2015
Columbia, South Carolina